

REMARKS/ARGUMENTS

The Applicant originally submitted Claims 1-21 in the application. In view of the Appeal Brief filed on October 26, 2005, the Examiner reopened prosecution and set forth new grounds of rejection. In previous responses, the Applicant amended Claims 1, 4-5, 7-10, 15-19 and 21. In the present response, the Applicant has amended Claim 15 to place the Claims in better condition for Appeal. Accordingly, Claims 1-21 are currently pending in the application.

I. Formal Matters and Objections

The Examiner has objected to the drawings under 37 C.F.R. 1.83(a) for failing to show every feature of the invention specified in the claims. More specifically, the Examiner asserts that the "intrinsic performance indication system" is not illustrated in the drawings of the present application. The Applicants respectfully disagree.

Newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure. (*See* MPEP 2163 (I)(B) regarding 35 U.S.C. §112, first paragraph.) In Figure 1, a performance indication system 105 is illustrated. As stated in the specification, the performance indication system 105 is included within the computer system 100. (*See* paragraph 19, page 7.) Accordingly, the performance indication system 105 illustrated in Figure 1 is an intrinsic performance indication system (*i.e.*, intrinsic to the computer system). Thus, every feature of the invention specified in the pending claims is at least implicitly shown in the drawings. The Applicants, therefore, respectfully request the Examiner to withdraw the objection to the drawings.

II. Rejection of Claims 1-4, 8 and 10-11 under 35 U.S.C. §102

The Examiner has rejected Claims 1-4, 8 and 10-11 under 35 U.S.C. §102(b) as being anticipated by "CATC USB Chief Bus and Protocol Analyzer User's Manual," hereinafter referred to as Chief. The Applicant respectfully disagrees.

Chief is directed to providing instructions for the operation of a "USB Bus and Protocol Analyzer" (Analyzer) that is employed to analyze a USB 1.1 signal. (*See* pages 1 and 13.) Chief provides no teaching that the Analyzer can be used for a USB signal that can operate at a high-speed. Instead, the Analyzer in Chief is for USB 1.1 signals that do not operate at a high-speed data transfer rate. As stated in the originally filed specification, the high-speed data transfer rate was added by the USB 2.0 Specification to provide a data transfer rate of 480 Mb/s to the defined data transfer rates of earlier USB Specifications (*i.e.*, USB 1.1). (*See* paragraph 5 on page 2 of present specification.) Thus, a high-speed data transfer rate is not simply a relative rate as compared to a lower transfer rate but is a defined rate as stated in the specification and as understood by one skilled in the art. Accordingly, Chief does not teach determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1 and 8.

Therefore, Chief does not disclose each and every element of independent Claims 1 and 8. As such, Chief does not anticipate Claims 1 and 8 and Claims dependent thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102 rejection with respect to Claims 1-4, 8 and 10-11.

III. Rejection of Claims 15-18 under 35 U.S.C. §103

The Examiner has rejected Claims 15-18 under 35 U.S.C. §103(a) as being unpatentable over Chief as applied to Claim 1 above and in further view of U.S. Patent No. 7,007,119 to Howard,

et al. The Applicant respectfully disagrees. As discussed above and as recognized by the Examiner, Chief does not disclose a USB 2.0 signal and does not disclose a subsequent USB standard to 2.0. To cure this deficiency, the Examiner cites Howard. Chief, however, also does not teach an intrinsic performance indication system as asserted by the Examiner. (See Examiner's Final Rejection, page 8.)

Chief discloses a separate Analyzer that can be connected to a USB branch for analysis. (See page 1.) The Analyzer is not part of the USB branch being analyzed but instead is a distinct unit that is configured and controlled by a separate personal computer. (See pages 1 and 17.) Thus, the Analyzer is not intrinsic to the computer system (*i.e.*, the USB host and the USB device) illustrated on page 17 as asserted by the Examiner. Instead, the Analyzer is a **stand-alone unit** that is connected to a system to be analyzed. (See pages 14 and 17.) Chief provides no teaching that the Analyzer is intrinsic to a computer system but instead teaches that the Analyzer is a temporary unit used for field service, maintenance and development. (See page 16.) Chief, therefore, does not teach or suggest an intrinsic performance indication system as recited in independent Claim 15.

The Examiner cites Howard to teach a computer system comprising a data transfer rate of a USB 2.0 signal. (See Examiner's Final Rejection, page 8.) The Applicant does not find where Howard teaches or suggests an intrinsic performance indication system. Instead, Howard relates to improving throughput on external busses when supporting devices which adhere to both newer and older versions of external bus protocol. (See column 1, lines 6-12.) As such, Howard does not cure the deficiencies of Chief. Accordingly, the cited combination of Chief and Howard does not teach or suggest an intrinsic performance indication system as recited in Claim 15.

Thus, the cited combination of Chief and Howard does not teach or suggest each element of independent Claim 15. Accordingly, the cited combination does not provide a *prima facie* case of

obviousness of Claim 15 and Claims dependent thereon. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 15-18 and allow issuance thereof.

IV. Rejection of Claims 5, 12 and 19 under 35 U.S.C. §103

The Examiner has rejected Claims 5, 12 and 19 under 35 U.S.C. §103(a) as being unpatentable over Chief and in further view of U.S. Patent No. 5,365,577 to Davis, *et al.* The Applicant respectfully disagrees.

As discussed above, Chief does not teach or suggest a USB 2.0 or subsequent USB standard signal. Thus, Chief does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1, 8 and 15. Chief, therefore, does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1, 8 and 15.

Davis has not been cited to cure the above deficiency of Chief but to teach at least a portion of a condition indication system that employs an audible device. (*See Examiner's Final Rejection, pages 4-5.*) Additionally, the Applicant does not find where Davis discloses determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation. Instead, Davis is directed to telecommunications systems adapted for transmission of speech and display data over standard, existing telephone lines for audio-graphic communication between parties. (*See column 1, lines 13-17.*) The combination of Chief and Davis, therefore, does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation.

Thus, the cited combination of Chief and Davis does not teach or suggest each element of independent Claims 1, 8 and 15. Accordingly, the cited combination of Chief and Davis does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 5, 12 and 19 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 5, 12 and 19 and allow issuance thereof.

V. Rejection of Claims 6, 13 and 20 under 35 U.S.C. §103

The Examiner has rejected Claims 6, 13 and 20 under 35 U.S.C. §103(a) as being unpatentable over Chief in view of U.S. Patent Application Publication No. 20030026183 by Kitagawa. The Applicant respectfully disagrees.

As discussed above, Chief does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1, 8 and 15. Kitagawa has not been cited to cure this deficiency of Chief but to teach determination of the data transfer rate is based on an outcome of a chirping process. (See Examiner's Final Rejection, pages 5-6.) Additionally, the Applicants do not find where Kitagawa discloses determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation. Instead, Kitagawa is directed to automatically changing a writing speed of an optical medium in accordance with an interface data transfer speed. (See column 1, paragraph 2.)

Thus, the cited combination of Chief and Kitagawa does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1, 8 and 15. Accordingly, the cited combination of Chief and Kitagawa does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims

6, 13 and 20 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 6, 13 and 20 and allow issuance thereof.

VI. Rejection of Claims 7, 14 and 21 under 35 U.S.C. §103

The Examiner has rejected Claims 7, 14 and 21 under 35 U.S.C. §103(a) as being unpatentable over Chief in view of U.S. Patent No. 6,308,215 to Kolbet for Claims 7 and 14 and over Chief in view Howard and in further view of Kolbet for Claim 21. The Applicant respectfully disagrees.

As discussed above, neither Chief nor the cited combination of Chief and Howard teach nor suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1, 8 and 15. Kolbet has not been cited to cure this deficiency but to teach employing a control signal associated with a USB signal for determination of a data transfer rate. (*See* Examiner's Final Rejection, page 6.) In fact, in previous Examiner's Actions, the Examiner has noted that Kolbet does not teach determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation.

Thus, the cited combinations of Chief and Kolbet or Chief, Howard and Kolbet do not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claims 1, 8 and 15. Accordingly, the cited combinations do not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 7, 14 and 21 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 7, 14 and 21 and allow issuance thereof.

VII. Rejection of Claim 9 under 35 U.S.C. §103

The Examiner has rejected Claim 9 under 35 U.S.C. §103(a) as being unpatentable over Chief in view of Kolbet and in further view of U.S. Patent No. 4,837,488 to Donahue. The Applicant respectfully disagrees.

As discussed above, the cited combination of Chief and Kolbet does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claim 8. Donahue has not been cited to cure this deficiency of the cited combination but to teach wherein determining and indicating are performed in circuitry contained in a cable assembly. (See Examiner's Final Rejection, pages 6-7.) The Applicant does not find where Donahue cures this deficiency but instead is directed to a portable identifier and tester assembly for multiple wire computer communication cables. (See column 2, lines 18-20.)

Thus, the cited combination of Chief, Kolbet and Donahue does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in independent Claim 8. Accordingly, the cited combination of Chief, Kolbet and Donahue does not provide a *prima facie* case of obviousness of Claim 8 and Claim 9 that depends thereon. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claim 9 and allow issuance thereof.


VIII. Conclusion

In view of the foregoing remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-21.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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